

REMARKS

Amendments to claims 1, 8, and 12 are for the purpose of clarifying what Applicant regards as the invention. Amendments to claims 17 and 18 are to renumber these claims as claims 16 and 17, respectively. No new matter has been added.

I. CLAIM OBJECTIONS

Claim 16 stand objected to because the claims 17 and 18 were misnumbered. Claims 17 and 18 have been renumbered as claims 16 and 17, respectively.

II. DOUBLE PATENTING REJECTIONS

Claims 1-6, 8-10, and 12-15 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-12 of U.S. Patent No. 6,331,184. Attached herewith is a Terminal Disclaimer disclaiming that portion of the term of any patent granted on the present application extending beyond the term of United States Patent Nos. 6,331,184. It is believed that the Terminal Disclaimer overcomes the double patenting rejection.

III. CLAIM REJECTIONS UNDER 35 U.S.C. § 102/103

Claims 1, 5, and 12-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,282,824 (Gianturco). Claims 1, 3, 4, 9, 11, and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,063,112 (Sgro). Claims 8 and 18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,948,191 (Solovay).

In an earnest effort to distinguish the claimed inventions from the cited references, claim 1 has been amended to recite a sheath *located distal to a prosthesis when the prosthesis is in a lumen of an elongate body*, and is configured to receive the prosthesis when the prosthesis is delivered outside the lumen of the elongate body. Claim 8 has been amended to recite similar limitations. Claim 12 has been amended to recite delivering a prosthesis into a lumen of a sheath that is releasably affixed to a tubular member. Applicant believes that the amended claims 1, 8, and 12 are now allowable over the cited references because none of the references disclose or suggest a sheath (e.g., a stent cover) that is located distal to a prosthesis when the prosthesis is being delivered in a lumen of an elongate body, nor do they disclose or suggest delivering a prosthesis into a lumen of a sheath that is releasably affixed to a tubular member.

Gianturo discloses a stent assembly having a sleeve (sheath) 13 and a stent 11 that is secured to the sheath 13 (Column 2, lines 56-59; Figs. 1-3). The sheath 13 and the stent 11 are delivered as a single unit to a target site (Column 3, lines 14-34; Figs. 3 and 4). As such, the sheath 13 is not located *distal* to the stent 11 when the stent 11 is being delivered, nor is the sheath 13 configured to *receive* the stent 11 when the stent 11 is delivered outside a lumen of an elongate body 23.

Sgro discloses a stent assembly having a sheath 8 and a prosthesis 5 that are coupled to each other. The sheath 8 and the prosthesis 5 are configured to be delivered together as a single unit (Figs. 1-11). As such, the sheath 8 is not located *distal* to the prosthesis 5 when the prosthesis is being delivered, nor is the sheath 8 configured to *receive* the prosthesis 5.

Similarly, Solovay discloses a stent assembly having a stent cover (sheath) 14 and a stent 12 that is secured to the sheath 14 (Column 8, lines 37-50; Figs 2-5). The sheath 14 and the stent 12 are delivered as a single unit to a target site (Figs. 6-10). As such, the sheath 14 is not located distal to

the stent 12 when the stent 12 is being delivered, nor is the sheath 14 configured to receive the stent 12 when the stent 12 is delivered outside a lumen of an elongate body 26.

For at least the foregoing reasons, claims 1, 8, and 12, and their respective dependent claims 1-6, 9-11, and 13-17, are believed allowable over Gianturo, Sgro, and Solovay.


CONCLUSION

Based on the foregoing, all remaining claims are believed in condition for allowance. If, the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the below-listed number.

Respectfully submitted,

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Dated: 6/7/04

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Enclosure: Terminal Disclaimer